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FORSYTH CO, NC FEE \$26.00

PRESENTED & RECORDED:

12-27-2017 02:13:54 PM

LYNNE JOHNSON

REGISTER OF DEEDS

BY: SANDRA YOUNG

DPTY

BK: RE 3384**PG: 1492-1498**

Prepared by and mail to: Steven E. Black
Black, Slaughter & Black, P.A., P.O. Box 41027, Greensboro, NC 27404

**NORTH CAROLINA
FORSYTH COUNTY**

**AMENDMENT TO THE AMENDED AND
RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND
RESTRICTIONS FOR MILBURN
SUBDIVISION**

THIS AMENDMENT TO THE AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR MILBURN SUBDIVISION is made as of the date set forth below, by the Milburn Homeowners Association, Inc. (the "Association").

WITNESSETH THAT

WHEREAS, by the following instruments recorded in the Forsyth County Registry, Taylor Development Group, LLC (the "Declarant") created a planned community pursuant to the North Carolina Planned Community Act and subjected Milburn Subdivision (the "Property") to the following Declaration of Covenants, Conditions, and Restrictions for Milburn Subdivision (the "Declaration") and amendments to the same:

- a) Forsyth County, Book 2868, Page 4052, on January 15, 2009;
- b) Forsyth County, Book 2567, Page 386, on September 13, 2011
- c) Forsyth County, Book 2854, Page 2334, on September 13, 2011
- d) Forsyth County, Book 3119, Page 2553, on April 26, 2013;

WHEREAS, the Declaration applies to and runs with the land described in the Plat Books and Pages of the Forsyth County Register of Deeds, including the following:

- a) Plat Book 56, Page 11
- b) Plat Book 56, Page 17
- c) Plat Book 59, Page 28
- d) Plat Book 59, Page 29
- e) Plat Book 59, Page 30
- f) Plat Book 59, Page 31
- g) Plat Book 61, Page 12
- h) Plat Book 61, Page 55
- i) Plat Book 61, Page 99
- j) Plat Book 66, Page 113

WHEREAS, Article X, Section 2 of the Declaration provides that the Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least seventy percent (70%) of the Owners' and with the consent of the Declarant, so long as the Declarant is a Class B Member of the Association as provided in Article III;

WHEREAS, the Officers of the Association executing this Amendment have certified that the requisite Owner approval has been obtained, copies of which are contained within the books and records of the Association; said Certification can be found attached hereto as Exhibit A;

NOW THEREFORE, the Declaration is hereby amended as follows:

Article IV of the Declaration is amended by adding the language underlined and removing the stricken language below:

Article IV
Common Areas Property Rights

Section 4. Antennas and Satellite Dishes. Every Owner must obtain written approval from the Architectural Committee prior to the installation of any type of antennas on the Common Area, including but not limited to, CB, TV, Video, and Short Wave., ~~on the outside of the Owner's unit(s), which installation the Association may regulate or prohibit in accordance with the Telecommunications Act of 1996.~~

Article V of the Declaration is amended by adding the language underlined and removing the stricken language below:

Article V
Covenants for Maintenance Assessments

Section 14. Capital Reserve Fund. The Board of Directors shall maintain a Capital Reserve Fund for the purpose of replacing capital items (such as the entrance sign). The annual budget for the Association shall provide for a minimum annual contribution to the Capital Reserve Fund of 5% of the projected annual revenue of the Association. The annual contribution may be increased in the discretion of the Association Board of Directors after review and consideration of the long term capital needs of the Association.

Article VI, Section 3(e) of the Declaration is amended by adding the language underlined and removing the stricken language below:

Article VI
Architectural Control, Inspection and Use Restrictions

(e) No building shall be placed or erected nearer the front property line than thirty-five (35) feet. The rear yard shall have a depth of not less than thirty-five (35) feet. Every building erected on the Property shall have side yards of not less than thirty (30) feet combined, with no one side yard being less than fifteen (15) feet. No ~~Property Building~~ shall be any closer to any side street than twenty (20) feet. Measurements shall be made to the exterior walls. If in question, clarification of the property line from which setbacks are to be measured shall be made by the Committee. No building (including any eaves, steps, and porches attached thereto) shall be located on any Lot nearer to the front property line, side property line, or rear property line than the minimum building setback lines required by applicable zoning regulations. An exception or waiver to the provisions of this subsection can be made if necessitated by unforeseen circumstances only if said exception or waiver is approved by a majority vote of the entire Association membership at a meeting specifically called for this purpose and at which a quorum is present.

The Board of Directors of the Association, by a majority vote of all its members, may grant a written variance from the setback minimums shown above for new primary residence construction only for Lots 2, 19, 34, and 35 only.

A written request for a variance to setbacks with details on the changes and minimums requested shall be submitted to the Board of Directors. The Board of Directors, by a majority vote, shall have sole authority to approve or deny a variance request, the decision of approval or denial shall be in the sole and unfettered discretion of the Board of Directors.

In considering a request for a variance the Board of Directors shall consider as a priority the reasonable protection and preservation of the plan and scheme of the subdivision to have an open and spacious appearance between Lots. The approval of any variance request shall not be a waiver by the Board of Directors to deny any future variance request.

The Board of Directors may approve a variance request with conditions including a requirement that other setbacks on the same Lot be enlarged.

Any written variance approved by the Board of Directors shall provide details of the modified enlargement or reduction of setback minimums. The written variance shall be executed by all title owners of the Lot and the president of the Association in a form sufficient for recording with the Register of Deeds and it shall be recorded with the Register of Deeds in order to be an effective variance. The requesting party shall be responsible for the cost of preparation and recording of any approved variance prior to recording.

Article VI, Section 3(l) of the Declaration is amended by adding the language underlined and removing the stricken language below:

~~(l) — No communications or television receiving dish, antenna or similar item may be erected or placed on any Lot or on any building on any Lot, except a satellite dish or less than one (1) meter in diameter. Before installing a satellite dish of less than one (1) meter in diameter, the~~

~~Lot Owner must make a good faith effort to locate the dish in the rear yard area and screen the dish such that the dish is not visible from any Lot, the street or any Common Areas. The screening for the dish must be approved by the Committee.~~

(l) No satellite dish, cabling, or installation equipment ("Satellite Equipment") may be installed within twenty-five (25) feet of any power line or electrified line located above or below ground. No Satellite Equipment may be installed within five (5) feet of any other utility line including, but not limited to, water, sewer, TV cable, and gas lines. In the event Satellite Equipment is installed on a surface or in a location which the Association is responsible for maintenance the owner must give at least five (5) days' notice of the proposed installation to the Board of Directors and the owner may be required to execute a Maintenance Agreement and Waiver in recordable format. No Satellite Equipment may be located on any Common Area of the Association.

Pursuant to the Federal Communication Commission (FCC) regulations and rulings the following Preferences have been established by the Association:

1. Satellite Equipment not to be located upon the roof of dwellings;
2. Satellite Equipment to be located within the rear or side yard area;
3. Owner must make a good faith effort to screen the Satellite Equipment so that it is not completely visible from the street;

Article VI, Section 3(v) of the Declaration is amended by adding the language underlined and removing the stricken language below:

(v) All motorized vehicles operating on a Lot or streets of Milburn Subdivision must have proper mufflers so as to eliminate noise which ~~might be offensive to others~~ can be heard from more than 100 feet away. Minibikes and similar two, three, ~~and four-wheeled~~ ATV vehicles and golf carts are prohibited from being used or operated on or within the Property except for use to and from the pond, shelter and trails (if any). ~~unless the prior written consent of the Committee is first secured.~~ Except as provided herein, no vehicles shall be operated on the Common Areas except for approved maintenance vehicles.

Article VI, the following new Section 3(z) shall be added to the Declaration:

(z) Parking. Owners and tenants shall not park on any street within the Milburn subdivision from the hours of 8:00 p.m. to 8:00 a.m. Guests are permitted to park on the streets for no more than seventy-two hours (72) hours.

Parking of all vehicles, including cars, trucks, golf carts, ATVS, is not permitted upon any Lot except for upon paved surfaces such as driveways, and inside garages. For clarification and to remove doubt, the parking of vehicles on the grass on any Lot is a violation of this provision.

Article VI, the following new Section 3(z2) shall be added to the Declaration:

(z2) Lease duration. No lease of any Lot shall be for a period of less than six (6) months and Owners shall be prohibited from advertising or otherwise holding their Lot out for leases or occupancy for less than six (6) months. Notwithstanding, this provision shall not apply to lease arrangements between a seller and buyer of a lot where the seller remains in the property after the closing as a temporary 'seller in possession' or other similar arrangement.

The following Article VI, new Section 8 shall be added to the Declaration:

Section 8. Septic System Maintenance, Repair, and Replacement. Each Lot Owner shall be responsible for the maintenance, repair, and replacement of the septic sewer piping, baffles, crushed rock, drain field lines, tanks, pumps, and all other materials and equipment required for the handling of sewage for their Lot whether above ground, below ground, on the Lot being served or off the Lot being served (hereinafter "Individual Sewage System").

For clarification, and to remove doubt, the intent of this Section is to make the Lot Owner that benefits from the Individual Sewage System responsible for the maintenance, repair, and replacement of the Individual Sewage System wherever they may be located, including on their Lot, on other lots in the Association, under roads, and upon Common Area.

To the extent that an easement does not already exist herein or upon any plat of the subdivision an easement is hereby granted to any Lot Owner with an Individual Sewage System owner to the extent and scope necessary to maintain, repair, and replace their Individual Sewage System including three feet on either side of underground piping.

Upon the maintenance, repair, and replacement of an Individual Sewage System the Lot Owner shall be responsible to return any disturbed area to the same condition as it was prior to the maintenance, repair, and replacement work. In the event the Lot Owner fails to return Common Area to its pre-work condition the Association shall, after ten (10) days' written notice, have the work completed and shall assess the cost of the work to the Lot Owner as provided in Article V herein.

This the 15 day of NOVEMBER, 2017.

MILBURN HOMEOWNERS ASSOCIATION, INC.

By: Tom Moore

President

ATTESTED:

Pam Fulton

Secretary,

Milburn Homeowners Association

SECRETARY ATTESTATION

I, Secretary of Milburn Homeowners Association., certify that Tom Moore personally came before me this day and acknowledged that s/he is the President Milburn Homeowners Association, Inc., a North Carolina Corporation, and that s/he, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my signature, this 15th day of November, 2017.

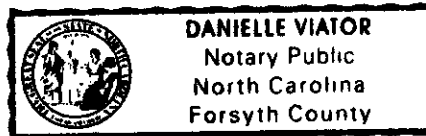
Pam Holton
Secretary

NORTH CAROLINA
~~GUILFORD~~ COUNTY
Forsyth

I, the undersigned, a Notary Public of the County and State aforesaid, do hereby certify that Pam Holton personally appeared before me this day and acknowledged that s/he is Secretary of Milburn Homeowners Association, Inc., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by him/her as its Secretary.

Witness my hand and official seal, this 15th day of November, 2017.

Danielle Viator
NOTARY PUBLIC
Printed Name: Danielle Viator
My Commission Expires: 9/23/19



NORTH CAROLINA
GUILFORD COUNTY

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Tom Moore personally came before me this day and acknowledged that he/she is President of Milburn Homeowners Association, Inc. and that he/she, as President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this 15th day of November, 2017.

Nancy B. Kincaid
NOTARY PUBLIC
Printed Name: NANCY B. Kincaid
My Commission Expires: 03-11-2022
Davidson County

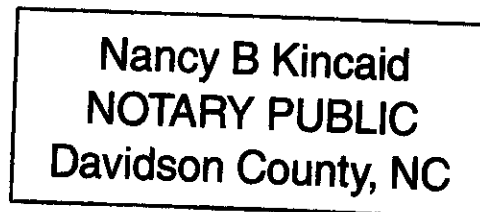


EXHIBIT A

CERTIFICATION

I hereby certify that the required Owner approval has been obtained and is evidenced by written acknowledgement(s) signed by the Owners approving the foregoing Amendment and that evidence is made a part of the books and records of the Association.

This the 15 day of NOVEMBER, 2017.

Tom Moore

Signature, Board President

Tom Moore

Printed Name

FORSYTH CO, NC FEE \$66.00
PRESENTED & RECORDED:

C. NORMAN HOLLEMAN

REGISTER OF DEEDS
BY: PATSY RUTH DAVIS
DPTY

PG: 2553-2577

Casey H. Howard, Esq.
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103

pursuant to an Assignment of Declarant's Rights dated January 31, 2013, which is recorded in Book 3104, Pages 2060-2063, in the Office of the Register of Deeds of Forsyth County, North Carolina; and

WHEREAS, the Original Declarant and Declarant conveyed all of the Original Declarant's and the Declarant's title to the Common Area to The Milburn Homeowners Association, Inc. in that North Carolina General Warranty Deed dated December 27, 2011, which is recorded in Book 3036, Pages 1580-1581, in the Office of the Register of Deeds of Forsyth County, North Carolina; and

WHEREAS, Section 2 of Article X of the Declaration of Covenants, Conditions, and Restrictions for Milburn Subdivision provides that the Declaration may be amended by the Declarant so long as Declarant is a Class B Member of the Association and so long as said amendment is not inconsistent with the common plan or scheme of development; and

WHEREAS, the Declarant is the Class B Member of the Association pursuant to Section 2 of Article III of the Declaration of Covenants, Conditions, and Restrictions for Milburn Subdivision, and amending the Declaration as hereinafter provided is consistent with the common plan or scheme of development; and

WHEREAS, it is the intent of the Declarant hereby to cause the above-described Property to be subjected to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Milburn Subdivision; and

WHEREAS, Declarant desires to continue to construct on the Property a high quality residential community, and Declarant desires to ensure the attractiveness of the community, to prevent any future impairment thereof, to prevent nuisances, to preserve and enhance the values and amenities of all properties within the community, and to provide for the maintenance of the Common Area as defined in this Declaration; and

WHEREAS, it is in the best interest of the Declarant, as well as to the benefit, interest and advantage of each and every current Owner or other Person hereafter acquiring any of the said Lots that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed, set forth and declared to be covenants running with the land; and

WHEREAS, in order to ensure the attractiveness of the community and to preserve and enhance the community as stated above, Original Declarant determined that an organization must be created which will receive the powers of administering and enforcing these covenants and restrictions and collecting and disbursing the assessments and charges as created herein, as well as the responsibility of owning, maintaining, and administering the Common Areas; and

WHEREAS, the Original Declarant incorporated under North Carolina law THE MILBURN HOMEOWNERS ASSOCIATION, INC. as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant hereby declares that all of the Property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with such real Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

The following words when used in this Declaration or any supplemental declaration hereto (unless the context clearly prohibits such a meaning) shall have the following meaning:

Section 1. "Amenities" shall mean the facilities constructed, erected, installed or set aside on the Common Area for the use, benefit and enjoyment of the Members.

Section 2. "Association" shall mean and refer to The Milburn Homeowners Association, Inc., a nonprofit corporation organized and existing under the laws of the State of North Carolina, its successors and assigns.

Section 3. "Board of Directors" or "Board" shall mean those persons elected or appointed to act collectively as the directors of the Association.

Section 4. "By-Laws" shall mean the By-Laws of the Association as they now or hereafter exist.

Section 5. "Committee" shall mean and refer to the Architectural Committee as described in Article VI.

Section 6. "Common Area(s)" shall mean and refer to any and all real property subject to this Declaration which is defined and bounded by properly referenced and recorded plat(s) designated thereon as "Common Area(s)," "Open Space," or "Common Open Space," or as "Landscape Easement(s)" created by the Declarant to provide landscaping of certain areas contained within a Lot(s) and access to enter such Lot(s) for care and maintenance of the landscaping, or any area that is set aside for the general use of the Members. Common Area(s) shall include all real property and easement interests owned by the Association for the common use and enjoyment of all Members or designated classes of Members of the Association, which may include but is not limited to, entranceway, vehicular circle, decorative street lights, entranceway signage, ponds, and picnic shelters. (It is understood that this list of possible amenities is only for descriptive purposes and the Declarant is not obligated to construct any of said amenities.)

Section 7. "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Milburn Subdivision which shall be recorded in the Forsyth County Registry.

Section 8. "Declarant" shall mean and refer to TAYLOR DEVELOPMENT GROUP, LLC, a North Carolina limited liability company, its successors and assigns.

Section 9. "Lot" or "Lots" shall mean and refer to any plot of land within Milburn Subdivision whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site as shown on a plat or plats for Milburn Subdivision, or amendments thereto, recorded in the Forsyth County Registry. The Common Area is not a Lot.

Section 10. "Member" shall mean and refer to any person or other entity who holds membership in the Association.

Section 11. "Original Declarant" shall mean and refer to K TODD ISENHOUR, LLC, a North Carolina limited liability company and its successors and assigns.

Section 12. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee interest in any Lot in the development, excluding however, those parties having such interest merely as a security interest for the performance of an obligation.

Section 13. "Person" shall mean and refer to a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.

Section 14. "Residence", "dwelling", or "building" shall mean and refer to any building or portion of a building situated on any Lot which is designed and intended for use and occupancy as a residence by a single family unit.

Section 15. "Rules and Regulations" shall mean and refer to any rules and regulations governing the use and enjoyment of the Common Areas that are formulated, published and enforced by the Board of Directors and included in the Book of Resolutions that is provided to Owners at the time of closing on the Owner's Lot and for which the Owner must acknowledge receipt. If at any time the Board of Directors amends the Rules and Regulations or Book of Resolutions, the amended version shall be furnished to all Owners within the Association.

ARTICLE II

Properties Subject to This Declaration

The Property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Forsyth County, North Carolina, and is more particularly

described as Milburn Subdivision and is recorded in Plat Book 56, Pages 11-16 and revised in Plat Book 56, Pages 17-22 in the Office of the Register of Deeds of Forsyth County, North Carolina.

ARTICLE III

Association Membership, Voting Rights, and Board of Directors

Section 1. Membership.

(a) Every person or entity who is a record owner of a fee or undivided fee interest in any Lot in the Subdivision shall be a Member of the Association, subject to and bound by the Association's Articles of Incorporation, By-Laws, and Rules and Regulations. The foregoing is not intended to include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. Ownership of record of such Lot shall be the sole qualification for membership. When any Lot is owned of record in tenancy by the entireties, joint tenancy, or tenancy in common or by some other legal form of multiple ownership, the membership (including the voting power arising therefrom) shall be exercised only as stipulated in Section 2 hereinbelow.

(b) If any Member shall be in default in the payment of any annual, special or other periodic assessment levied by the Association, said Member's voting rights and right to the use of the Common Areas or any other facilities which the Association may provide ("Use Rights") may be suspended by the Board of Directors until such assessment, together with such reasonable penalties as the Board of Directors may impose, have been paid. Similarly, in the event of a Member's violation of any of the Rules or Regulations, such Member's voting rights and Use Rights may be suspended by the Board of Directors until said Member is in compliance with all of the Rules and Regulations and any reasonable penalties imposed by the Board of Directors have been paid. Before any Member's voting rights or Use Rights may be suspended by the Board of Directors, the Board of Directors (or a committee thereof) shall give the Member ten (10) days prior written notice ("Rights Suspension Notice"). All Rights Suspension Notices shall include a statement setting forth the Member's unpaid assessments and the total unpaid balance of assessments, or a list of all Rules and Regulations violated with an indication of the fines to be imposed for each such violation, or both, as applicable. Further, all Rights Suspension Notices shall set forth the time, place, and date that a hearing will be held before the Board of Directors to address the issues set forth in the Rights Suspension Notice. If, prior to the scheduled hearing, the Member elects to pay either the unpaid balance of assessments or the fine for the violation of the Rules and Regulations set forth in the Rights Suspension Notice, then there will be no hearing. If the Member does not elect to pay either the unpaid balance of assessments or the fine for the violation of the Rules and Regulations set forth in the Rights Suspension Notice, the hearing will be held at the scheduled time, place, and date and the determination of the appropriate suspension of voting rights and/or Use Rights, assessment, and/or fine shall only be made by a majority vote of the Board of Directors or a committee thereof; however, no member of the Board of Directors or any committee thereof shall participate in any vote that will impact said Board Member's own voting rights and Use Rights.

(c) No membership fee shall be charged, nor shall Members be required to pay at any time any amount to carry on the business of the Association except to pay when due the charges, assessments and special assessments levied upon each Member's Lot as specified in the Declaration or as the Members of the Association may from time to time hereafter adopt.

Section 2. Voting and Voting Rights.

(a) The voting rights of the membership shall be appurtenant to the ownership of Lots. The ownership of each Lot by a person other than Declarant shall entitle its Owner to one vote. The Association shall have two classes of voting membership:

(1) Class A. Class A Members shall be all Owners, other than Declarant; however Declarant shall be a Class A Member to the extent provided in subparagraph (2) hereinafter. Class A Members shall be entitled to one vote for each Lot owned.

(2) Class B. The Class B Member shall be the Declarant, and it shall be entitled to three (3) votes for each Lot in which it holds a fee or undivided fee interest; provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) At such time that Declarant shall have sold seventy-five percent (75%) of the Lots in the Subdivision to Owners other than the Declarant, or

(ii) On September 1, 2015.

(b) Notwithstanding anything in sub-paragraph (a) of Section 2 above to the contrary, the Declarant shall retain all voting rights for all Lots for a period of one (1) year following the date of closing of the first sale of a Lot by the Declarant to the first Owner or the first Owner's builder. It is the intent of this paragraph that the Declarant will retain complete control of the Association for the said one (1) year period. Without this provision, the Association would have to be managed by Owners who are not residents of the Property and who are engaged in the building of their Residences.

If, at the end of the first year following the date of the closing of the first sale of a Lot by the Declarant to the first Owner or the first Owner's builder, three-fourths (3/4) of the Lots have not been sold to Owners or the first Owner's builders, then, and in that event, the two classes of voting membership and the voting rights shall be as set forth in sub-paragraph (a) of Section 2 above.

Regardless of whether or not the Declarant still controls the Association as provided above, the Association dues from the Owners, shall still begin to accrue from the date of closing of the first sale of a Lot to the first Owner (or the first Owner's Builder) as provided in Section 1 of Article V.

(c) When two or more persons hold an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised by one of such persons as proxy and nominee for all persons holding an interest in a Lot and in no event shall more than one (1) vote be cast with respect to any Lot (except with respect to Lots owned by Declarant), nor shall any fractional vote be cast.

(d) If any Member is delinquent in the payment of any charges duly levied by the Association against a Lot owned by such Member, said Member's voting rights may be suspended as provided in Section 1(b) of Article III, and said Member shall not be entitled to vote until all such charges, together with such reasonable penalties as the Board of Directors may impose, have been paid.

(e) Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after eleven (11) months from the date of its execution or upon conveyance by the Member of his Lot. A corporate or limited liability company Member's vote shall be cast by the President of the Member corporation or limited liability company or by any other officer or proxy appointed by the President or designated by the Board of Directors of such corporation or limited liability company, which designation must, if requested by the Association, be in writing.

(f) Voting on all matters except the election of the Board of Directors shall be by voice vote or by show of hands unless a majority of the Members present at the meeting shall, prior to voting on any matter, demand a ballot vote on that particular matter. Where directors or officers are to be elected by the Members, the solicitation of proxies for such elections may be conducted by mail.

Section 3. Board of Directors and Officers. During the term in which Declarant controls the Association as provided above, the Board of Directors and Officers of the Association shall be appointed by Declarant at its sole discretion. Subsequent Directors and Officers of the Association shall be elected by the Members of the Association in accordance with the voting rights as set forth herein. The members of the Board of Directors and Officers need not be Members of the Association.

ARTICLE IV

Common Areas Property Rights

Section 1. Use of Common Areas. Every Owner (by virtue of membership in the Association) shall have a nonexclusive right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title for every Lot, subject to the provisions of this Declaration, the By-Laws, and the Book of Resolutions of the Association, and the encumbrances referred to in Section 3 hereof, and the following:

(a) The right of the Association to limit the use of the Common Areas to Owners, their families and guests.

(b) The right of the Association to suspend the voting and enjoyment rights of an Owner for any period during which any dues, charges, assessments (regular or special) against the Owner's Lot remain unpaid, or for any infraction of the Association's published Rules and Regulations, as set forth in more detail in Article III, Section 1(b).

(c) The right of the Association to mortgage, to dedicate or to transfer any part of the Common Areas to any public agency, authority, utility or other entity for such purposes and subject to such conditions as may be agreed to by the Members of this Association as applicable in accordance with the terms and provisions of this Declaration. No such mortgage, dedication or transfer shall be effective unless approved by Members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance of the vote. The instrument effecting such dedication, transfer or conveyance shall be sufficient if it is executed by appropriate officers of the Association and contains a recital of the approval of the Members.

(d) The right of the Association to formulate, publish and enforce the Rules and Regulations as provided in Article VI, and to formulate, publish and enforce the Rules and Regulations governing the use and activities permitted on or around any areas designated as Common Areas.

(e) The right of the Declarant, in its sole discretion, and at no cost to any Owner, to use any of the Common Areas for the installation of utility lines of all types, drainage ditches or swales, to grade and pave roadways or easements of access, and to do all things and acts necessary to develop the Property to its final development, together with the right to grant easements to the proper utility and/or governmental authority for such use.

Section 2. Delegation of Use. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by members of the Owner's family, and an Owner may delegate his rights of enjoyment in the Common Areas to his or her tenants or contract purchasers who occupy the dwelling of the Owner within the Property.

Section 3. Parking and Use Regulations for Boats, Trailers, etc. The Association may regulate the parking on the Common Areas. No boats, commercial vehicles, trailers, motor homes, recreational vehicles, or trucks shall be parked within the right-of-way of any public or private street in or adjacent to the Property.

Section 4. Antennas and Satellite Dishes. Every Owner must obtain written approval from the Architectural Committee prior to the installation of any type of antennas, including but not limited to, CB, TV, Video, and Short Wave, on the outside of the Owner's unit(s), which installation the Association may regulate or prohibit in accordance with the Telecommunications Act of 1996.

ARTICLE V

Covenants for Maintenance Assessments

Section 1. Annual Assessment for Maintenance Fund. For each Lot owned within Milburn, the Owner covenants and agrees, and each subsequent Owner of any such Lot covenants and agrees, that by acceptance of a deed therefor, whether or not it is so expressed in such deed, the Owner will pay to the Association the assessments and charges provided for in this Declaration, as follows:

- (a) Annual assessments or charges in the amount hereinafter set forth.
- (b) Special assessments as approved by the Association to be established and collected as hereinafter provided.

The annual assessment provided for herein for the Association shall be payable in advance on an annual basis by every Owner of each Lot, unless the Association decides by a majority vote to have the assessment payable monthly. The annual assessment shall be due on January 1 of each year except for the first year of ownership by an Owner. At the closing of the purchase of a Lot by an Owner (or Owner's Builder), the assessment shall begin to accrue and the Owner shall pay to the Association at closing the Owner's pro rata share of the annual assessment for the remainder of the year.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to provide funds for such purposes and common expenses as are for the benefit of the Owners of Lots within the areas overseen and administered by the Association, which purposes may include maintenance, replacement, repair, insurance, landscaping and beautification of the Common Areas, which shall specifically include the payment of electric bills for decorative street lighting whether or not such lighting is installed in the Common Areas or along or in the public or private streets. Funds may also be used to provide other services to promote the health, safety and welfare of the residents of the community and in particular for the acquisition, improvement and maintenance of the properties, services and facilities related to the use and enjoyment of the Common Areas, including but not limited to the cost of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes assessed against all Common Areas; the procurement and maintenance of insurance; the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful; the employment of security personnel to provide any service which is not readily available from any governmental authority; and such other needs as may arise. Any additional uses and purposes for assessments may be adopted by an amendment to this Declaration, as provided in Article X herein.

Section 3. Creation of the Lien and Personal Obligation of Assessment. Any assessment not paid within thirty (30) days after the due date shall constitute a lien on the Lot with respect to which such sum was assessed upon filing in accordance with N.C.G.S. § 47F-3-116. Said lien shall be enforceable by the Association in accordance with N.C.G.S. § 47F-3-116,

and the Association may foreclose upon the lien in accordance with North Carolina General Statute § 47F-3-116. In addition, each such assessment, together with interest, costs, and reasonable attorneys' fees, shall be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due and, if any assessment is not paid within thirty (30) days after the due date, the Association or its agents or representatives may bring an action at law against the Owner personally obligated to pay the same in the alternative to enforcement pursuant to N.C.G.S. § 47F-3-116. Interest shall accrue on any assessment not paid within thirty (30) days after the due date at the maximum legal rate and to the full extent allowed by law, and interest, costs and reasonable attorneys' fees for any such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law.

Section 4. Exempt Property. The assessments, charges and liens created under this Article V shall not apply to the Common Areas, nor shall they apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure; provided, however, that upon the resale of such Lot by such first mortgagee, the assessment herein provided shall again commence and accrue and shall be fully applicable to such Lot upon the conveyance to any subsequent Owner. Any Lot which Declarant may hereafter designate for common use, either temporarily or permanently, as part of the Common Areas or otherwise shall be exempt from the assessments and charges created herein. In addition, other than land and improvements devoted to dwelling use, all property dedicated to and accepted by a local public authority shall be exempt from the assessments, charges and liens created hereby.

Section 5. Annual Maintenance Assessments and Maximums.

(a) The annual maintenance assessment imposed by the Association shall be set each year by the Association as set forth herein.

(b) In establishing the annual assessment for any year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs. Any increase in the annual assessment greater than ten percent (10%) of the previous year's assessment shall require the approval of two-thirds (2/3) of the Association's Members.

(c) Notwithstanding anything in this Article V to the contrary, as long as the Declarant is still funding the deficit as set forth in Section 8 of Article V, no dues or assessments shall accrue or be charged against any Lot owned by the Declarant not containing a completed Residence. However, as long as the Declarant is still funding the deficit as set forth in Section 8 of Article V, Declarant shall be required to pay all dues or assessments accrued or charged against all completed Residences owned by Declarant.

Section 6. Special Assessments. In addition to the annual assessment imposed by the Association set forth above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any capital improvement, for repairs or replacement of any capital improvement, for repairs or replacement of any improvement on the Common Areas, including the repair or replacement of

the paving on the private streets, and private easements created by the Declarant to provide access to more than one Lot. Provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of all Owners of Lots, at a meeting duly called for this purpose, written notice of which shall be sent to all Members in accordance with the provisions of the By-Laws for special meetings of the Association.

Section 7. Administrative Fee. Upon the sale of any Lot, the purchaser of the Lot shall pay to the Association at the time of the closing of the purchase an "Administrative Fee" in the amount of One Hundred Dollars (\$100.00). The Administrative Fee shall be added to the budget of the Association and applied to the payment of expenses as determined by the Board. The Administrative Fee shall be paid each time ownership of the Lot is transferred, and is in addition to all other assessments. All Administrative Fees may be enforced and collected in the same manner as all other assessments.

Section 8. Budget Deficits During Declarant Control. For so long as Declarant has the authority to appoint the Board of Directors and officers of the Association, Declarant may: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of Declarant or such builder, as applicable; or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Subdivision. Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Areas or any of the improvements maintained by the Association shall be given in connection with such loan.

Section 9. Date of Commencement of Annual Assessment Due Dates; Certificate of Payment.

(a) The annual assessments provided for herein for the Association shall be payable on January 1 of each year. The assessment shall begin to accrue as to a Lot at the time of closing and conveyance of a Lot to an Owner other than the Declarant. At least thirty (30) days before January 1 of each year, the Board of Directors shall establish the amount of the annual assessment imposed by the Association against each Lot and in the event the Board of Directors elects not to fix such assessment rate as herein provided, the amount of the prior year's annual assessment shall be the fixed amount. Written notice of any changed assessment rate shall be sent to every Owner by the Association.

(b) The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments (whether annual or special or imposed by the Association) on a specified Lot have been paid to date.

Section 10. Effect of Nonpayment of Assessment; Remedies of the Association. As set forth in Section 3 of Article V, any assessment not paid within thirty (30) days after the due date shall constitute a lien on the Lot with respect to which such sum was assessed upon filing in accordance with N.C.G.S. § 47F-3-116. Said lien shall be enforceable by the Association in accordance with N.C.G.S. § 47F-3-116, and the Association may foreclose upon the lien in accordance with North Carolina General Statute § 47F-3-116. In addition, each such assessment, together with interest, costs, and reasonable attorneys' fees, shall be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due and, if any assessment is not paid within thirty (30) days after the due date, the Association or its agents or representatives may bring an action at law against the Owner personally obligated to pay the same in the alternative to enforcement pursuant to N.C.G.S. § 47F-3-116. As further set forth in Section 3 of Article V, interest shall accrue on any assessment not paid within thirty (30) days after the due date at the maximum legal rate and to the full extent allowed by law, and interest, costs and reasonable attorneys' fees for any such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law.

Section 11. Subordination of the Lien to Ad Valorem Taxes and Mortgages. The liens provided for herein on any Lot shall be subordinate to the lien of ad valorem taxes and subordinate to the lien of any first or second lien deed of trust (sometimes hereinafter called 'mortgage' and the holder thereof being sometimes hereinafter referred to as a "mortgagee"). Sale or transfer of any Lot shall not affect any assessment lien; provided however, the sale or transfer of any Lot which is subject to any mortgage pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment, fees, fines, or other charges, as to payments which became due prior to such sale or transfer, but the Association shall have a lien upon the proceeds from the foreclosure sale, junior only to the said foreclosed mortgage. No foreclosure sale or transfer in lieu of foreclosure shall relieve such Lot from liability for any assessment, fees, fines, or other charges thereafter becoming due or from the lien thereof, except as provided in Section 4 of this Article V.

Section 12. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five (75%) of the Class A Membership as defined in Section 2(a)(1) of Article III, and the costs of any such proceeding shall be paid by a Special Assessment levied and approved under the terms herein, and not from the Association's general or reserve funds. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IV hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it.

Section 13. Collection of Assessments. The Association shall promptly send an invoice to Owners for all assessments other than annual assessments, and shall promptly notify Owners of any change in the amount of assessments. The Association shall further promptly collect all assessments due from Owners pursuant to the terms and provisions hereof.

ARTICLE VI

Architectural Control, Inspection and Use Restrictions

Declarant shall have the responsibility of enforcing the restrictions set forth in this Article prior to the formation of the Committee which, upon election by the Members, shall assume and be responsible for enforcement of these restrictions. References in this Article to "Committee" shall mean "Declarant" until the Committee is elected and references to "Declarant" shall mean "Committee" once it is appointed. The following architectural restrictions shall apply to each and every Lot now or hereafter subject to this Declaration.

Section 1. Approval of Plans and Architectural Committee.

(a) No site preparation or initial construction, erection, or installation of any improvements, including, but not limited to, dwellings, outbuildings, landscaping, fences, walls, signs, antennas, mailboxes, post lamps, and other structures, shall be undertaken upon the Lots unless the plans and specifications therefor, showing the nature, kind, shape, height, materials, color and location of the proposed improvements on the Lot, including but not limited to, the house, decks, garage, driveway, parking areas, plants, shrubs, trees (including trees to be removed), and any other permanent structures or changes to be made to the Lot, shall have been submitted to the Committee and expressly approved by the Committee in writing. No subsequent alteration or modification which will result in an exterior change to the dwelling, outbuilding, or significant changes to the landscaping may be undertaken on any of the Lots without the prior review and express written approval of the Committee. No Committee Member shall participate in the review of any request related to said Committee Member's own Lot or shall participate in the decision of whether to approve any request related to said Committee Member's own Lot.

(b) In the event that the Committee fails to approve or disapprove the site or design of any proposed improvements within sixty (60) days after plans and specifications therefor have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Committee if they contain erroneous data or fail to present adequate information upon which the Committee can arrive at a decision.

(c) For purposes of Section 1, subparagraph (b) above, the plans and specifications will not be deemed to have been "received" unless the Committee acknowledges in writing such receipt or, in the alternative, the plans and specifications are sent by certified or registered mail to the Committee, and a return receipt is received acknowledging the receipt thereof.

(d) The Committee shall have the right, at its election, to enter upon the Lots during site preparation or construction, erection or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with

the approved plans and specifications and in a good and workmanlike manner, utilizing standard industry methods and good quality materials.

(e) The approval of any such plans, specifications or other items submitted to the Committee pursuant to this Article shall not impose any liability or responsibility on the Committee or the Association with respect to either the compliance or non-compliance of any such plans, specifications or other items (including any improvements or structures erected in accordance therewith) with applicable zoning ordinances, building codes or other governmental or quasi-governmental laws, ordinances, rules and regulations from defects in or arising from such plans, specifications or other items (including, without limitation, defects relating to engineering matters, structural and design matters and the quality or suitability of materials).

(f) For so long as Declarant owns a Lot in Milburn Subdivision, or until such time as the Declarant notifies the Board of Directors in writing of its desire to have the Association elect the members of the Committee, the Declarant shall serve as the Committee, and shall exercise the authority to approve plans and other matters set forth in this Article. After Declarant divests itself of all Lots within the Property, or so notifies the Association, the Committee shall be elected by a majority of the votes of the Members, cast in person or by proxy, at a meeting duly called for this purpose.

(g) The Committee may, in its sole discretion, require any Owner to post a bond in an amount up to \$2,500.00 prior to the commencement of any construction by such Owner as security for compliance with such reasonable requirements as the Committee may require or the covenants and conditions set forth in this Declaration relating to Construction.

Section 2. Rules and Regulations. The Board of Directors shall have the power to formulate, publish and enforce reasonable Rules and Regulations concerning the use and enjoyment of the Common Areas. Such Rules and Regulations, along with all policy resolutions and policy actions taken by the Board of Directors shall be recorded in a Book of Resolutions, which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours.

Section 3. Use Restrictions.

(a) All structures must be built to comply substantially with the plans and specifications as approved by the Committee, and before any house may be occupied it must be completely finished and a certificate of completion must have been issued by the local or state authority empowered to do so.

(b) All Lots shall be used for single-family residential use only. No building shall be erected, altered, placed or permitted to remain on any Lot, other than a detached, single family dwelling. Any additional building or out buildings which an Owner wants to construct on a Lot must be approved in writing by the Committee.

(c) No building shall be built, erected or used on a Lot unless it contains living area of at least Twenty-Eight Hundred (2800) square feet of floor space. The living area floor space herein referred to shall be exclusive of garages, porches, breezeways, terraces and basement areas. Said measurements are to be measured from the outside wall lines. With written approval of Declarant, a portion of the living space required to comply with the limitations of this paragraph may remain unfinished.

(d) No permanent structures shall be erected having exposed exterior walls of concrete blocks, and all driveways must be paved with either concrete, asphalt, or approved hard surface pavers.

(e) No building shall be placed or erected nearer the front property line than thirty-five (35) feet. The rear yard shall have a depth of not less thirty-five (35) feet. Every building erected on the Property shall have side yards of not less than thirty (30) feet combined, with no one side yard being less than fifteen (15) feet. No Property shall be any closer to any side street than twenty (20) feet. Measurements shall be made to the exterior walls. If in question, clarification of the property line from which setbacks are to be measured shall be made by the Committee. No building (including any eaves, steps, and porches attached thereto) shall be located on any Lot nearer to the front property line, side property line, or rear property line than the minimum building setback lines required by applicable zoning regulations. An exception or waiver to the provisions of this subsection can be made if necessitated by unforeseen circumstances only if said exception or waiver is approved by a majority vote of the entire Association membership at a meeting specifically called for this purpose and at which a quorum is present.

(f) No business, professional clinic or other trade or business activity shall be carried on or upon any Lot or in any building erected thereon except a Lot Owner may use one room of the residence as a home office provided there is nothing visible from the outside of the residence to indicate a room is being used as an office; there are no business clients or members of the general public coming to the residence because of the business being conducted in the residence; and there is nothing being done in the residence which may be or become an annoyance or a nuisance to the neighborhood.

(g) No trailer, basement, tent, shack, garage, barn or other outbuilding erected on any Lot shall be used at any time as a residence, temporarily or permanently, nor shall any structure of any temporary character be used as a residence. This restriction shall not apply to construction trailers used during the construction of improvements on any Lot.

(h) No stable, barn, or outbuilding shall be erected or allowed to remain on any Lot for domestic animals. No animals, livestock or poultry of any kind shall be raised, bred, pastured or maintained on any Lot, except standard household pets which may be kept thereon in reasonable number as pets for the sole pleasure and purpose of the occupants but not for any commercial use or breeding purpose. No pets shall be permitted in or upon the Common Areas unless restrained by a leash. The walking of any pets on streets, Common Areas or Lots belonging to others for the purposes of allowing pets to relieve themselves of bodily wastes is

prohibited and each pet owner is responsible for retrieving any excrement deposited by his or her pet in the event of unintentional depositing of such waste.

(i) No Property in the Subdivision shall be used for the sale of any items, including automobiles, nor shall inoperable automobiles, automobiles which are not used on a regular basis, or other debris, trash or storage items be allowed to accumulate or to remain on any Lot of the Subdivision.

(j) Declarant reserves an easement for, and the right at any time in the future to grant, rights-of-way for the installation and maintenance of public utilities across, on or under any Lot along the front, rear and side property lines, but such rights-of-way must be used so as to interfere as little as possible with the use of the Lot by its Owner. Further, there is reserved on behalf of Declarant and the standard utility companies for electricity, telephone, cable, natural gas, and any other standard utility company which has been approved by the Committee, an easement to enter upon the premises to maintain, repair, or modify existing or future underground facilities, and the Owners, or their successors in title to said Lots, shall in no way interfere with said facilities, or dig up, cut or tamper with said facilities except at their own peril and in violation of the rights of said utility companies. No public utility company or governmental entity or agency shall obtain any right in the easement reserved herein without an express written and recorded grant thereof by Declarant. In the event the Property subject to this Declaration is served by any underground public utility facilities, the service to structures erected thereon shall be connected to the underground public utility facility at the pedestals provided for this purpose.

(k) Decorative fencing of good quality may be erected, but the quality, style, color, and location of said fencing must be approved by the Committee. Fencing must be maintained in a good state of repair.

(l) No communications or television receiving dish, antenna or similar item may be erected or placed on any Lot or on any building on any Lot, except a satellite dish of less than one (1) meter in diameter. Before installing a satellite dish of less than one (1) meter in diameter, the Lot Owner must make a good faith effort to locate the dish in the rear yard area and screen the dish such that the dish is not visible from any Lot, the street or any Common Areas. The screening for the dish must be approved by the Committee.

(m) Incinerators for garbage, trash or other refuse shall not be used or permitted to be erected or placed on any Lot. Any and all equipment, coolers, woodpiles, garbage cans, refuse or storage piles placed on a Lot (whether temporary or permanent) shall be screened to conceal same from the view of adjoining Lots, roads, streets, or Common Areas. Plans for all screens, walls and enclosures must be approved by the Committee prior to construction.

(n) No leaves, trash, garbage or other similar debris shall be burned except as permitted by the appropriate governmental authority. No garbage, trash, construction debris or other unsightly or offensive materials shall be placed upon any portion of the Lot, except as is temporary and incidental to the bona fide improvement of any portion of the Lot.

(o) No lumber, brick, stone, cinder block, concrete or other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any Lot except for the purpose of construction on such Lot or for the purpose of staging materials for construction of improvements on other Lots if the Declarant designates the Lot as a staging area for such construction materials. In either event, such materials shall not be stored on the Lot for longer than the length of time reasonably necessary for completion of the improvement(s) in which same is to be used.

(p) No exposed above-ground tanks will be permitted for storage of fuel or water or any other substance.

(q) No Owner shall excavate or extract earth from any of the Lots subject to this Declaration for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots.

(r) No outside toilet facility may be constructed or maintained on any Lot except during construction of improvements on any Lot.

(s) Outside clotheslines and other such clothes-handling devices will not be permitted.

(t) There will be an approved mailbox for use on Lots in the Subdivision. Each Owner will be responsible for the cost of repairing and maintaining his or her own mailbox, and the location of the box will be determined by Owner and Declarant. Owners may use only the approved mailbox, and shall replace the mailbox with another approved mailbox, at their own expense, in the event that it is damaged or destroyed.

(u) No sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon, except for the Declarant's or Declarant's agents' "for sale" signs (no subcontractor's signs or lender's signs shall be allowed) for first time sales. Thereafter, only the usual and customary "for sale" signs will be allowed on a Lot.

(v) All motorized vehicles operating on any Lot or streets of Milburn Subdivision must have proper mufflers so as to eliminate noise which might be offensive to others. Mini-bikes and similar two, three, or four-wheeled ATV vehicles are prohibited from being used or operated on or within the Property, unless the prior written consent of the Committee is first secured. No vehicles shall be operated on the Common Areas except for approved maintenance vehicles.

(w) No garage, outbuilding or other appurtenant structure shall be used for residential purposes, either temporary or permanently, except for a finished room or rooms which are a part of the attached garage, without the written consent of the Committee.

(x) The use restrictions set forth in this Section 3 listing those items which may not be maintained on a Lot shall not apply to Lots during the period of construction of the dwelling unit upon the Lots. As soon as a dwelling unit has been completed on a Lot, these use restrictions shall immediately apply to the Lot.

Section 4. Hobbies and Activities. The pursuit of hobbies or other inherently dangerous or unsightly activities including, but without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions, and the shooting of firearms, fireworks or pyrotechnic devices of any type or size. Any such activities shall not be pursued or undertaken on any part of any Lot or the Common Areas without the consent of the Board of Directors.

Section 5. Nuisances and Unsightly Materials. Each Owner shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the Subdivision. No noxious, offensive or illegal activity shall be carried on upon any Lot. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever; nor shall any substance, thing or material be kept upon any Lot which will emit foul or noxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed, covered structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for pickup by garbage and trash removal service units. Each Owner shall maintain the improvements on the Lot in a neat and orderly manner. In the event any Owner of any Lot fails or refuses to maintain the improvements on the Lot in a neat and orderly manner or to keep the Lot from accumulating any of the foregoing unsightly items, weeds or underbrush, the Association may, at its option, ten (10) days after posting a notice thereon or mailing a notice to said Owner at his property address requesting Owner to comply with the requirements of this Section, enter and remove all such unsightly items and growth at said Owner's expense, and Owner shall be personally liable to the Association for the costs of removal, and said costs, until paid, shall be a permanent charge and lien upon such Lot enforceable to the same extent and collectible as provided for in Article V, entitled "Covenants for Maintenance Assessments." By acquiring property subject to these restrictions, each and every Owner agrees to pay such costs promptly upon demand by the Association, its agents, assigns, or representatives. No such entry as provided in this Section shall be deemed a trespass. The provisions of this Section shall not apply to Lots upon which residences are under construction.

Section 6. Governmental Regulations. Each Owner shall observe all governmental building codes, health regulations, zoning restrictions and other regulations applicable to his Lot. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

Section 7. Other Prohibitions or Requirements.

(a) No vent or other pipes or appendages may extend from the front of any dwelling, unless screened from public view by a screening material or shrubbery approved by the Committee. Declarant shall have the ability to waive this requirement on an individual basis as needed.

(b) Downspouts and gutters must be so constructed so as not to promote the erosion of the soil of any Lot.

(c) Any outdoor lighting must be shielded so as to cast no direct light upon adjacent Lots.

ARTICLE VII

Easements

Section 1. Walks, Drives, Parking Areas and Utilities. All of the Property, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant or its predecessors in title. The Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Areas conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Utilities and Drainage. All utility lines of every type, including but not limited to water, electricity, natural gas, telephone, sewage and television cables, running from the main trunk line or service locations, must be underground. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, across, over and under the ground to erect, maintain, replace and use water, sewer, electric and telephone systems, wires, cables, and conduits for the purpose of bringing public services, including television cable service, to the Lots and Common Areas, said easement to be within (i) ten (10) feet of each Lot line fronting on a street and (ii) twenty (20) feet along the rear line of each Lot, (iii) the rights-of-way of any street or road shown on the most current plats recorded in the Office of the Register of Deeds of Forsyth County, North Carolina, and (iv) such other areas as are shown on the most current plats recorded in the Office of the Register of Deeds of Forsyth County, North Carolina, provided further, that the Declarant or Association may cut, at its own expense, drainways for surface water wherever and whenever such action is reasonably required in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, take or add any soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation or to maintain reasonable standards of health, safety and appearance.

Section 3. Emergency. There is hereby reserved without further assent or permit, a general easement over the streets and Common Areas to all policemen and security guards employed by Declarant or the Association, firemen, ambulance personnel and all similar law enforcement and emergency personnel to enter upon the Property, or any property or portion thereof which is now or hereafter made subject to this Declaration, in the performance of their respective duties.

ARTICLE VIII

Insurance

Section 1. Fidelity Insurance Coverage. As a part of the common administration expense of the Association, the Association may provide for fidelity coverage against dishonest acts on the part of the officers, directors, management, contractors, employees or volunteers responsible for handling funds belonging to or administered by the Association at the discretion of the Board of Directors. The fidelity bond or insurance must name the Association as the named insured and shall be written in an amount set by the Association. In connection with such coverage, an appropriate endorsement to the policy to cover any person or persons who serve without compensation shall be added if the policy would not otherwise cover volunteers. If requested by an Owner or mortgagee, such policies shall additionally provide that the policies cannot be canceled by either the insured or the insurance company until after ten (10) days prior written notice to all who have requested such notice.

Section 2. Other Insurance. The Board of Directors may purchase and maintain in force as a common expense, liability insurance, debris removal insurance, plate glass or other glass insurance, fidelity bonds and other insurance or bonds that it deems necessary. The Board of Directors shall purchase and maintain workers' compensation insurance to the extent that the same shall be required by law respecting employees of the Association.

Section 3. Owner's Insurance. Each Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, is deemed to covenant:

(a) To keep each dwelling unit upon a Lot insured against loss by fire with what is commonly called extended coverage in an amount equal to at least ninety percent (90%) of the replacement value of such dwelling unit;

(b) Subject to the provisions and covenants contained in any mortgage or mortgages, deed or deeds of trust creating a lien against any Lot, to apply the full amount of any insurance proceeds to the rebuilding or repair of any dwelling unit;

(c) To rebuild or restore the dwelling unit in the event of damage thereto; and

(d) To keep the dwelling unit and appurtenances, excluding Common Areas, in good repair as provided by the By-Laws of the Association, this Declaration and the Rules and Regulations adopted from time to time by the Board of Directors.

In the event of non-payment of any premium for insurance required under this Article, the Association is authorized to pay such premium, and sums so paid shall be due on demand and become a lien upon the insured Lot and a personal obligation of the Owner which shall be enforceable in the same manner and to the same extent as provided for enforcement of liens for assessments hereunder. This is a right to do so and not an obligation of the Association.

ARTICLE IX

Rights of Institutional Lenders

Section 1. Amendments. The prior written approval of each institutional holder of a first deed of trust on Lots will be required for any material amendment to the Declaration or to the By-Laws of the Association which affects the rights of such holders.

Section 2. Professional Management. As a part of the common administration expense of the Association, the Declarant reserves the right to select professional management of the Association for the period during which Declarant maintains voting control of the Association. Declarant is not required to engage professional management, but may, if Declarant so desires. Following the transfer of voting control to the Owners pursuant to Article III, the Owners may vote either to engage professional management for the Association, or to self manage the Association.

Section 3. Inspection and Notice. Upon written request, any institutional holder of a first lien on a Lot will be entitled to:

- (a) inspect the books and records of the Association during normal business hours;
- (b) receive an annual financial statement of the Association within ninety (90) days following the end of any fiscal year;
- (c) written notice of all meetings of the Association and shall be permitted to designate a representative to attend all such meetings;
- (d) written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;
- (e) written notice of any proposed action that requires the consent of a specified percentage of mortgage holders; and

(f) written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage.

Section 4. Condemnation or Default.

(a) If any Lot or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any mortgage on a Lot will be entitled to timely written notice of any such proceeding or proposed acquisition.

(b) The holder of a mortgage on any Lot shall be given prompt written notice of any default in the mortgagor's obligations hereunder which are not cured within thirty (30) days of said default, provided that the holder shall have given written notice to the Association that it is a holder as to the Lot of such mortgagor and shall have requested the notice of default as herein set forth.

ARTICLE X

General Provisions

Section 1. Duration. The foregoing restrictions shall be construed to be covenants running with the land and shall be binding and effective for sixty (60) years from the date of recording, at which time they shall be automatically extended for successive periods of ten (10) years each unless it is agreed by the vote of a majority in interest of the then Owners of the above-described Property to change, amend or revoke the Declaration in whole or in part. Every purchaser, owner or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the covenants and restrictions of this Declaration may be extended as provided in this Article.

Section 2. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; or (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; or (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant is a Class B Member of the Association as provided herein, Declarant may unilaterally amend this Declaration for any other purpose so long as said amendment is not inconsistent with the

common plan or scheme of development; provided, however, any such amendment shall not materially or adversely affect the substantive rights of any Lot Owner hereunder, nor shall it materially or adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least seventy percent (70%) of the Owners and with the consent of the Declarant, so long as Declarant is a Class B Member of the Association as provided in Article III.

Every purchaser or subsequent grantee of any interest in any property now or hereafter made subject to this Declaration by acceptance of a deed or other conveyance therefor, hereby agrees that the covenants and restrictions of this Declaration may be amended as provided in this Article.

Section 3. Procedure for Certification and Recordation of Amendment. Any instrument amending this Declaration (other than a permitted unilateral amendment by the Declarant, or an amendment by the Board of Directors to correct an error or inconsistency in drafting, typing or reproduction) shall be delivered, following approval by the Owners, to the Board of Directors. Thereupon, the Board of Directors shall, within thirty (30) days after delivery, do the following:

(a) Reasonably assure itself that the amendment has been approved by the Owners of the required number of Lots as provided in Section 2 of this Article. (For this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to any Lot to be examined).

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed.

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be executed by the Association's officers in the same manner that deeds are executed, and recorded in the Forsyth County Registry.

All amendments shall be effective from the date of recordation in the Forsyth County Registry, unless a later effective date is specified therein. When any instrument purporting to amend this Declaration has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to the Owners of all Lots in this Subdivision.

Section 4. Enforcement. If any person, firm or corporation shall violate or attempt to violate any covenants, restrictions or other provisions of this Declaration, it shall be lawful for the Association or for any other person, firm or corporation owning any Lot or other portion of the Property to bring an action against the violating party at law or in equity for any claim which this Declaration may create in such other Owner or interested party either to prevent said person, firm or corporation from doing such acts or to recover damages for such violation. The violating

party shall be responsible for all costs and attorneys' fees incurred by the Association or such other Owner in such action. Any failure by the Association or any Owner to enforce any of said covenants, restrictions or other provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Invalidation of any one or more of these covenants, restrictions or other provisions of this Declaration by judgment or court order shall neither affect any of the covenants, restrictions, or other provisions hereof not expressly held to be void nor the covenants, restrictions, or other provisions hereof so voided in circumstances or application other than those expressly invalidated, and all such remaining covenants, restrictions, or other provisions of this Declaration shall remain in full force and effect together with the covenants, restrictions, or other provisions hereof ruled upon as they apply to circumstances other than those expressly invalidated.

Section 5. Delegation and Assignability. Declarant shall at all times and from time to time have the right to delegate any and all functions herein reserved to Declarant. Further, notwithstanding any other provision contained herein to the contrary, Declarant shall have the right at all times and from time to time to fully transfer, convey and assign all or any part of its right, title and interest (whether real or personal) in and to Common Areas; provided, however, that any transferee, grantee or assignee shall be deemed to have assumed the same, in the event of any such sale, transfer or conveyance, subject to the terms and conditions of this Declaration. Declarant shall not, however, be liable to any person for any injury or loss resulting from failure of performance or negligent performance of Declarant's obligations under this Declaration arising after such sale, transfer or conveyance.

Section 6. Conflicts. In the event of any irreconcilable conflict between the Declaration and the By-Laws of the Association, the provisions of this Declaration shall control. In the event of any irreconcilable conflict between this Declaration or the By-Laws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 7. Headings and Binding Effect. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying the particular sections of this Declaration to which they refer. The covenants, agreements and rights set forth herein shall be binding upon and inure to the benefit of the respective heirs, executors, successors and assigns of the Declarant and all persons claiming by, through and or under Declarant.

Section 8. Unintentional Violation of Restrictions. In the event of an unintentional or minor violation of any of the foregoing restrictions of this Declaration with respect to any Lot, the Declarant or its successors reserves the right (by and with the mutual written consent of the Owner or Owners of such Lot) to change, amend, or release any of the foregoing restrictions as the same may apply to that particular Lot.

ARTICLE XI

Dissolution or Insolvency of the Association

In the event that the Association becomes insolvent or for any reason whatsoever loses the ownership of any of the private streets, if any, or Common Areas, the Owners of Lots having an interest in such Common Areas and private streets may, at their election as determined by majority vote of those affected, form a nonprofit corporation as provided in the Articles and By-Laws of the Association and assign to it the duty and authority to assess on a per Lot basis all Lots having an interest in such Common Areas and private streets whereupon such corporation shall maintain such Common Areas and private streets in the same manner that the Association is empowered to do by this instrument with the same right of lien for assessments provided for herein.

IN WITNESS WHEREOF, the Declarant has caused this Amended and Restated Declaration of Covenants, Conditions and Restrictions for Milburn Subdivision to be duly signed, the day and year first above written.

TAYLOR DEVELOPMENT GROUP, LLC
A North Carolina Limited Liability Company

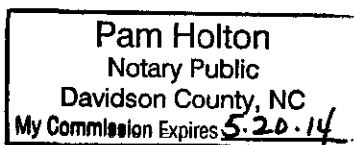
John A. Taylor (SEAL)
John A. Taylor, President & Manager

STATE OF NORTH CAROLINA)
COUNTY OF FORSYTH)

I, Pam Holton, the undersigned Notary Public of the County and State aforesaid, certify that John A. Taylor personally came before me this day and acknowledged that he is the President of Taylor Development Group, LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and Notarial stamp or seal, this 25th day of April, 2013.

My Commission Expires:



Pam Holton, Notary Public